



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
<http://www.epa.gov/region08>

May 23, 2003

Ref: 8ENF-T

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Terry Haugen, Director of Public Works
City of Laramie
Public Works
P.O. Box C
Laramie, Wyoming 82073

Re: Order for Compliance under the
Clean Water Act 33 U.S.C. § 309(a)

Dear Mr. Haugen:

Enclosed is a United States Environmental Protection Agency Region VIII ("EPA") Order for Compliance ("Order") issued to the City of Laramie. The Order specifies the nature of the violations under the Clean Water Act, as amended, 33 U.S.C. § 1251, *et seq.* (the "CWA"). The authority for such action is provided to EPA under section 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3).

The Order describes the actions necessary in order for the City of Laramie to achieve compliance with the CWA. Furthermore, the Order requires you to notify EPA in writing within ten (10) days whether you intend to comply with the Order.

The CWA requires the Administrator of EPA to take all appropriate enforcement actions necessary to secure prompt compliance with the CWA and any Orders issued thereunder. Section 309 of the CWA provides a variety of possible enforcement actions, including the filing of a civil or criminal action (33 U.S.C. §§ 1319(b), (c), (d), and (g)). Section 508 allows for debarment from Federal contracts and/or loans for any noncompliance with the CWA or with an Order issued pursuant to the CWA (33 U.S.C. § 1368).

Please be advised that the issuance of this Order does not preclude the initiation of administrative penalty proceedings or initiation of civil or criminal actions in the U.S. District Court under sections 309(g), (b), (d) and (c) of the CWA for the violations cited in the Order.



Please review the Order carefully. Failure to comply with the requirements of the Order shall constitute a violation of said Order. If you have any questions regarding this letter, the enclosed Order, or any other matters pertinent to the City of Laramie's compliance with the CWA, the most knowledgeable people on my staff regarding these matters are Elyana Sutin, Enforcement Attorney, at (303) 312-6899, and Colleen Gillespie, Technical Enforcement, at (303) 312-6047.

Sincerely,

Michael T. Risner for/

Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

Enclosures

cc: Brian Bohlmann, WDEQ (w/encl.)

REGION 8

IN THE MATTER OF:)	ORDER FOR COMPLIANCE
)	
The City of Laramie)	[33 U.S.C. §1319 (a)(3)]
Laramie, Wyoming)	
)	Docket No. CWA-08-2003-0069
NPDES Permit No. WY-0022209)	
)	
Respondent)	

STATUTORY AUTHORITY

This Order for Compliance (Order) is issued pursuant to section 309(a)(3) of the Clean Water Act (Act), 33 U.S.C. § 1319(a)(3), which authorizes the Administrator of the United States Environmental Protection Agency (EPA) to issue an order requiring compliance by a person found to be in violation of sections 301, 302, 306, 307, 308, 318, and/or 402 of the Act, or in violation of any permit condition or limitation implementing any such sections of the Act. This authority has been delegated to the undersigned official.

Section 307(b) of the Act, 33 U.S.C. § 1317(b), directs the Administrator of the EPA to establish Pretreatment Standards applicable to indirect discharges to control those pollutants that are determined not to be susceptible to treatment by a POTW or which would interfere with the operation of such POTW; these standards are promulgated at 40 C.F.R. part 403.

FINDINGS OF FACT

1. The City of Laramie is a “municipality” as defined by section 502(4) of the Act, 33 U.S.C. § 1362(4); a municipality is a “person” within the meaning of section 502(5) of the Act, 33 U.S.C. § 1362(5) for purposes of federal enforcement.

2. The City of Laramie (City) owns and operates a publicly owned treatment works (POTW) located at 2778 Banner Road Laramie, Wyoming.
3. The City discharges treated wastewater into an unnamed drainage which enters the Laramie River. NPDES permit number WY-0022209, issued by the State of Wyoming on July 31, 1999, and effective on August 1, 1999 authorizes the City to discharge in accordance with section 402 of the Act, 33 U.S.C. § 1342.
4. The Laramie River is a "water of the United States" within the meaning of 40 C.F.R. § 122.2.
5. Wastewater is a "pollutant" within the meaning of section 502(6) of the Act, 33 U.S.C. § 1362 (6).
6. The General Pretreatment Regulations, at 40 C.F.R. § 403.8(a), provide that "[A]ny POTW with a total design flow greater than five (5) million gallons per day (MGD) and receiving from industrial users pollutants which Pass Through or Interfere with the operation of the POTW or are otherwise subject to Pretreatment Standards will be required to establish a POTW Pretreatment Program" unless the NPDES State otherwise assumes the responsibility.
7. Any such POTW Pretreatment Program must receive EPA approval pursuant to 40 C.F.R. § 403.8(b). Upon its approval by EPA, the responsibility to apply and enforce the National Pretreatment Standards transfers to the POTW.
8. The City operates a wastewater treatment plant with a design capacity of 6.0 MGD and an average daily flow of 4.4 MGD.
9. At all times relevant to this Order, EPA has been and continues to be the "Approval

Authority” within the meaning of 40 C.F.R. § 403.3(c).

10. EPA approved the City’s POTW Pretreatment Program on July 26, 1996 at which time the City became the “Control Authority” within the meaning of 40 C.F.R. § 403.12(a).
11. Pursuant to 40 C.F.R. § 403.8(f)(5) of the Pretreatment Program Requirements, “The POTW shall develop and implement an enforcement response plan.”
12. EPA approved the City’s document “City of Laramie Industrial Pretreatment Procedures on Implementing 40 C.F.R. Part 403.8 (F)(2)” dated May 1, 1995 and last revised on February 1, 1996 (Pretreatment Procedures) as a part of program approval on July 26, 1996. An enforcement response plan was approved as a part of the Pretreatment Procedures.
13. The City has designated the University of Wyoming, ALSACO American Linen (American Linen), the United States Department of Agriculture Animal Tissue Digester (USDA), Earth Environmental, and TriHydro Corporation (TriHydro) as “Significant Industrial Users” (SIUs) within the meaning of 40 C.F.R. § 403.3(t).

VIOLATIONS

The factual basis and support for this Order are established by Pretreatment Program Annual Reports submitted to EPA by the City of Laramie for 1999, 2000, and 2001, EPA’s June 11, 2002 Pretreatment Compliance Inspection (PCI), the September 4, 2002 Pretreatment Audit, and the City of Laramie’s March 2002 response to EPA’s information request.

COUNT I

14. Pursuant to City of Laramie Ordinance 1346, the City’s approved Pretreatment Procedures, the City’s National Pollutant Discharge Elimination System (NPDES) permit

(Part III, section B(1)(a) of NPDES permit WY-0022209), and 40 C.F.R. § 403.8(f)(2)(v), the City must inspect and sample the effluent from each SIU at least once per calendar year.

15. In calendar year 2000, the City did not inspect or sample effluent from Earth Environmental.
16. In calendar year 2001, the City did not inspect or sample effluent from the University of Wyoming, American Linen, or TriHydro. The City inspected but did not sample USDA.
17. The City has failed to inspect and sample effluent from each SIU at least once per calendar year as required by City of Laramie Ordinance 1346, the City's approved Pretreatment Procedures, the City's NPDES permit, and 40 C.F.R. § 403.8(f)(2)(v), and is therefore subject to this Order.

COUNT II

18. Pursuant to 40 C.F.R. § 403.8(f)(1)(iii), City Ordinance 1346, the City's approved Pretreatment Procedures, and the City's NPDES permit (Part III, section B(1)(f) of NPDES permit WY-0022209) the discharges of all SIUs shall be controlled through permits.
19. Industrial User permit number 20001, issued to USDA by the City of Laramie and effective on August 14, 2000, expired on August 13, 2001. The USDA was still without a valid permit as of March 5, 2003.
20. Industrial User permit number 2001-02, issued to the University of Wyoming by the City and effective on June 1, 2001, expired on May 31, 2002. On February 28, 2002, the University of Wyoming submitted an incomplete permit application for a new permit.

21. Pursuant to City Ordinance 1346, a permit cannot be administratively extended without receipt of a complete permit application. A permit was issued to the University of Wyoming by the City on September 4, 2002 without receipt of a complete permit application and was made effective back to June 1, 2002. A new, valid permit was issued December 1, 2002 after receipt of a completed application. The University of Wyoming was without a valid permit from May 31, 2002 until December 1, 2002.
22. The City has failed to issue permits to control the discharges from all SIUs as required by 40 C.F.R. § 403.8(f)(1)(iii), City Ordinance 1346, the City's approved Pretreatment Procedures, and the City's NPDES permit (Part III, section B(1)(f) of NPDES permit WY-0022209), and is therefore subject to this Order.

COUNT III

23. Pursuant to the City's Enforcement Response Plan (ERP), City Ordinance 1346, 40 C.F.R. § 403.8(f)(5), and the City's NPDES permit (Part III, section B(1)(e) of NPDES permit WY-0022209), the City is required to enforce all applicable pretreatment standards and requirements and obtain remedies for noncompliance by any Industrial User.
24. The USDA failed to reapply for a permit ninety days prior to the expiration of its permit (number 20001 issued by the City and effective on June 1, 2001) as required by City Ordinance 1346 and the aforementioned permit. EPA's June 11, 2002 Pretreatment Compliance Inspection (PCI) and EPA's September 4, 2002 Pretreatment Audit (Audit) found no evidence of an enforcement response by the City addressing USDA's failure to reapply for a permit.

25. EPA's June 11, 2002 PCI found that the City had failed to identify and address the fact that American Linen had not signed ten self monitoring reports (SMRs) as required by 40 C.F.R § 403.12(l). The City's ERP states that for incomplete reports the City will call the facility, and continued noncompliance with reporting requirements will result in a Notice of Violation (NOV). EPA's September 4, 2002 Audit found that the City had not called the facility nor issued a NOV for at least four American Linen SMRs which were submitted unsigned.
26. EPA's September 4, 2002 Audit found that the University of Wyoming used SW846 methods on its October 20, 2001 self monitoring report. The SW846 methods are not approved methods under 40 C.F.R. part 136. Industrial Users must use laboratory analysis methods approved under 40 C.F.R. part 136 pursuant to 40 C.F.R. § 403.12 (h). The City's ERP states that incorrect analytical procedures shall be responded to with a phone call, and that failure to re-sample will result in a NOV. The Audit found no evidence that the City had called the University of Wyoming regarding the violation or issued an NOV.
27. USDA's permit, section (B)(1) requires that USDA report compliance with pH and metals prior to discharge. The City's response to EPA's request for information found that USDA did not notify the City of compliance with pH and metals prior to the discharges on February 21, 2001 and February 22, 2001. USDA sent a letter dated April 5, 2001 notifying the City of the discharges. The Audit found no evidence of an enforcement response from the City addressing this violation.
28. The Audit found that the University of Wyoming's August 2002 SMR was 15 days late.

The City's ERP states that a late report will result in a phone call. The Audit found that this violation was not addressed.

29. The PCI found that American Linen was reporting an average for pH, and that the results for BETX reported on the SIU's December 2001 SMR did not agree with the lab report. The PCI found that the City had failed to identify the violations and take enforcement action.
30. The City has failed to take enforcement actions against Industrial Users for reporting, monitoring, and effluent limit violations as required in the City's ERP, 40 C.F.R. § 403.8(f)(5), and the City's NPDES permit (Part III, section B(1)(e) of NPDES permit WY-0022209), and is therefore subject to this Order.

COUNT IV

31. Pursuant to 40 C.F.R. § 403.8(f)(2)(iv), the City shall develop and implement procedures to analyze SMRs from Industrial Users. Section 4(B) of the Pretreatment Procedures states that all compliance reports shall be checked for compliance with the user's permit, proper usage of analytical methods, proper sampling techniques and to ensure that the reports are received on time and signed. The Pretreatment Procedures further state that all alleged violations will be recorded on a Violation Summary specific to each industrial user.
32. The City failed to check compliance reports for compliance with the IU's permit, proper usage of analytical methods, proper sampling techniques and to ensure that the reports are received on time and signed in the instances described in paragraphs 25, 26, 28, and 29.
33. The City failed to implement procedures to analyze compliance reports submitted by IUs

as required by the City's Pretreatment Procedures and 40 C.F.R. § 403.8(f)(2)(iv) and is therefore subject to this Order.

ORDER

_____The City is ordered to perform the following actions:

34. Upon receipt of this Order, the City shall immediately take all action necessary to properly enforce its approved Pretreatment Program in accordance with the approved ERP.
35. Upon receipt of this Order, the City shall immediately take all action necessary to properly implement its approved pretreatment program including analysis of compliance reports submitted by SIUs, and the issuance of control mechanisms to SIUs.
36. Within ten (10) days of receipt of this Order, the City shall give written notice to EPA of its intent to comply with the requirements of this Order.
37. Within thirty (30) days of receipt of this Order, the City shall submit a report to EPA describing the actions proposed and/or taken to prevent all pretreatment violations cited by this Order from recurring. This report shall include specific dates for the actions to be taken and references to the violations prompting the actions.
38. The City shall submit to EPA copies of all inspection reports and sample results for work performed by the City within fourteen (14) days of completion of the inspection report or receipt of sample analysis data.
39. Within sixty (60) days of receipt of this Order, the City will make a determination on which Industrial Users are SIUs. This determination will include all Industrial Users which have water consumption which may exceed 25,000 gallons per day as indicated by

the water consumption data submitted by the City in response to EPA's March 2002 information request. The City's findings will be submitted to EPA and will include a description of the procedures used in determining if an individual control mechanism should be issued to each of these Industrial Users. The report will include results from the sampling at Blue Beacon Truck Wash required in the September 30, 2002 Audit report and a determination on whether this facility will be issued an individual control mechanism.

40. Within ninety (90) days, the City will submit documentation to EPA that it has complied with 40 C.F.R. §§ 403.8(f)(2)(ii) and 403.8(f)(2)(iii) for any new SIUs identified.
41. Within thirty (30) days of completion of the actions taken by the City and/or its contractors in response to paragraphs 34 through 38, the City will submit an itemized list of all costs incurred to implement these actions.
42. All written notices and reports required by this Order shall be sent to the following addressee:

Colleen Gillespie (8ENF-T)
U.S. EPA Region VIII
Office of Enforcement, Compliance
and Environmental Justice
Technical Enforcement Program
999 18th Street, Suite 300
Denver, Colorado 80202-2466

43. The City shall submit a written notice of compliance or noncompliance within fourteen (14) days following each schedule date listed in paragraphs 34 through 38 of the Order. In the case of noncompliance, the notice shall include the cause for noncompliance and specify remedial actions being taken to comply.
44. Any failure to comply with the requirements of this Order shall constitute a violation of said Order and may subject the City to penalties as provided under the Act, 33 U.S.C. § 1319.
45. This Order does not constitute a waiver or modification of the terms and conditions of the City's NPDES Permit which remains in full force and effect.
46. This Order does not constitute a waiver or election by EPA to forego any civil or criminal action to seek penalties, fines or other relief as it may deem appropriate under the Act. Be advised that 33 U.S.C. § 1319(d) authorizes the imposition of civil penalties of up to \$27,500 per day for each violation of the Act, while 33 U.S.C. § 1319(c) authorizes fines and imprisonment for willful or negligent violations of the Act.
47. Nothing in this Order shall be construed to preclude the institution of further action under section 309 of the Act for those violations cited herein or relieve the City from responsibilities, liabilities, or penalties established pursuant to any applicable Federal and/or State law or regulation.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION VIII
Complainant.

Date: 5/23/03

Michael T. Risner for/
Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

THIS DOCUMENT WAS FILED IN THE RHC'S OFFICE ON MAY 23, 2003.